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DIRECTOR'S OFFICE MEMORANDUM 2011 - 8

EFFECTIVE: December 29, 2010

DATE: December 13, 2010

TO: Executive Policy Team
Administrative Management Team
Wardens

FROM: Patricia L. Caruso, Director

SUBJECT: Prisoner-to-Prisoner Mail

SUPERSEDES DOM 2010 - 9 (effective 01/01/10)

Beginning December 1, 2009, prisoners were prohibited from sending correspondence through the mail to another prisoner except for prisoners who were verified to be immediate family members and for verified legal correspondence. An immediate family member is defined as being a spouse, parent, stepparent, grandparent, mother-in-law, father-in-law, child, step-child, grandchild, sibling, step-sibling, or half-sibling. Legal correspondence is allowed between prisoners who are not represented by legal counsel who:

1. were charged for a criminal offense in which both prisoners were involved if either prisoner currently has an appeal of his/her conviction for that offense pending in a State or Federal court.
2. are co-plaintiffs in a verified pending civil case, including during the appeal period. Once the appeal is filed, however, only co-appellants in the pending appeal may correspond. Plaintiffs in a verified pending civil case filed with the court also may correspond with witnesses in that case, but not during the appellate phase; they also may not correspond in cases which are decided based upon the record (e.g., Petition for Judicial Review) or which have not yet been served on any defendant.

In addition to the above, correspondence between prisoners also is allowed when one of the prisoners is verified as having acted in the same relationship as an immediate family member to the other prisoner prior to incarceration (e.g., an aunt or uncle who served as a surrogate parent). The burden of providing verification is on the prisoner and may be approved only by the Deputy Director of Correctional Facilities Administration (CFA).

Prisoners who meet the criteria set forth above for allowable correspondence may correspond with each other only after appropriate staff approval has been received. Only prisoners who have received approval to correspond with another prisoner are permitted to do so. This applies only to prisoners under the jurisdiction of the Department; prisoners may continue to correspond with prisoners in other federal or state correctional facilities and with jail inmates in accordance with applicable policies and procedures.

Currently, a parolee may not correspond with a prisoner as a standard condition of parole unless approval is received from the supervising field agent. A prisoner therefore is prohibited from corresponding with a parolee absent such approval. If that approval is received, the prisoner may correspond with the parolee but only in the same manner as allowed for prisoner-to-prisoner correspondence.

All approval for legal correspondence automatically expire one year after the date of the approval unless renewed by the prisoner. It is the prisoner's responsibility to submit the renewal request sufficiently in advance of the expiration date to allow for review and approval. The prisoner must meet the criteria for approval in order to be considered for renewal. Renewal requests are to be processed in the same manner as for new requests. Approvals for correspondence between immediate family members do not expire and therefore do not require renewal.

A prisoner who is approved to correspond with another prisoner may have that approval revoked as set forth in this Director's Office Memorandum for unauthorized communications, including sending correspondence on behalf of another prisoner.

APPROVAL PROCESS

A prisoner who meets the criteria for allowable correspondence with another prisoner who wants to correspond with that prisoner must submit a completed and signed Prisoner-to-Prisoner Mail form (CSJ-100) to designated housing unit staff to obtain approval prior to corresponding with the prisoner. For legal correspondence, this includes providing the full docket number, including name of the court, on the form. The form shall be readily available to prisoners during reception processing and in housing units. If a prisoner wants to correspond with more than one prisoner, a separate form must be used for each prisoner.

Designated housing unit staff shall attempt to confirm the prisoner's eligibility to correspond with a prisoner identified as being an immediate family member within five business days after receipt of a completed Prisoner-to-Prisoner Mail form. This includes reviewing the prisoner's Record Office or Counselor file, as necessary. For legal correspondence, housing unit staff shall forward the request to the local litigation coordinator, who shall obtain verification and approval from the Office of Legal Affairs in accordance with instructions issued by the CFA Deputy Director or designee. For correspondence requiring approval of the CFA Deputy Director, the request shall be forwarded to that office through the appropriate chain of command. Additional information and/or documentation may be requested from prisoners as needed to verify eligibility.

The prisoner's request shall be approved if it is verified that the prisoner is eligible to correspond with the identified prisoner. The approval allows for correspondence between the requesting prisoner and

the identified prisoner; the identified prisoner does not need to also apply. Approved requests shall be submitted for entry into OMNI in accordance with instructions issued by the CFA Deputy Director or designee. **Only staff designated by the CFA Deputy Director shall enter approvals into OMNI.** If staff are unable to verify the prisoner's eligibility, the request shall be denied. Whenever a request is denied, the prisoner may resubmit the request with additional verifying documentation if s/he wants the request reconsidered. The approval or denial of the request shall be documented on the Prisoner-to-Prisoner Mail form, a copy of which shall be placed in the prisoner's Record Office and Counselor files with a copy given to the prisoner. If the request is approved, a copy of the form also shall be sent to the Warden of the institution at which the other prisoner is housed. The Warden shall ensure that a copy of the form is placed in that prisoner's Record Office and Counselor files and that a copy is given to the prisoner.

RECEIPT OF PRISONER-TO-PRISONER CORRESPONDENCE THROUGH THE MAIL

Whenever mail is received for a prisoner from another prisoner, mailroom staff shall check OMNI to determine if the sending prisoner is approved to correspond with the intended recipient. If the sending prisoner is not approved to send the correspondence, the correspondence shall not be delivered and may be destroyed without notice to the sender or intended recipient.

If the sending prisoner is approved to correspond with the intended recipient through the mail, the correspondence shall be read in its entirety to determine if it is otherwise allowed under PD 05.03.118 "Prisoner Mail" and this Director's Office Memorandum. If the mail is believed to violate PD 05.03.118 or this Director's Office Memorandum, including if the mail contains correspondence from another prisoner, the receiving institution shall issue a Notice of Prisoner-to-Prisoner Mail Rejection (CSJ-320) to the sending prisoner; the Office of Legal Affairs shall be consulted prior to issuing the Notice if the approval was for legal correspondence. The Notice and relevant portions of the correspondence shall be sent within a reasonable period of time to the facility mailroom at which the sending prisoner is housed for prompt delivery to the sending prisoner.

A hearing on the proposed rejection shall be provided to the sending prisoner consistent with hearing requirements set forth in PD 05.03.118 unless the prisoner waives the hearing. The institution at which the sending prisoner is housed may restrict that prisoner's correspondence with other prisoners except for approved legal correspondence pending the hearing with written notice to the prisoner, but the hearing shall be held within 14 business days after imposition of the temporary restriction. All temporary restrictions shall be entered in OMNI; the prisoner being restricted also shall be provided written notice of the temporary restriction.

If the sending prisoner waives the hearing or the institutional hearing officer upholds the rejection, the prisoner will no longer be allowed to send correspondence that is not legal correspondence to other prisoners, unless the Warden or designee approves otherwise based on the specific facts of the rejection; however, the prisoner is allowed to receive correspondence from approved prisoners. If the rejected mail was legal correspondence, the Warden or designee shall consult with the Office of Legal Affairs to determine appropriate action to be taken. The restriction shall be entered in OMNI and any temporary restriction imposed removed. The sending prisoner also shall be notified of the restriction in writing with a copy sent to the wardens of the institutions housing prisoners with whom the sending prisoner had been approved to correspond; the wardens shall ensure that a copy of the notice is given

to the prisoner(s) at their respective institutions.

A prisoner whose approval to send correspondence to other prisoners has been revoked may request that the approval be reinstated no sooner than one year after the Warden's determination and, if denied, at one year intervals thereafter. Approval for reinstatement is subject to approval by the Warden of the facility at which the prisoner is housed.

PRISONER-TO-PRISONER MAIL SENT ON A PRISONER'S BEHALF BY A MEMBER OF THE PUBLIC

Mail received for a prisoner from a member of the public that was sent on behalf of another prisoner in an attempt to circumvent restrictions set forth in this Director's Office Memorandum is considered a threat to the security, good order, and discipline of the institution and therefore shall be rejected as set forth in PD 05.03.118 "Prisoner Mail". Whenever mail from a member of the public is believed to have been sent for this purpose, however, the notice, hearing, and appeal requirements set forth in PD 05.03.118 shall be followed. If the prisoner waives his/her right to a hearing in writing or the institutional hearing officer upholds the rejection, the mail shall be destroyed after the retention period required by PD 05.03.118.

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